5/16/03

PATENT EXAMINER REISSUE APPLICATION CHECKLIST

Examiner:	S. Tran
Art Unit :	1615
Reissue Appl. No.:	101808617

THIS CHECKLIST IS PROVIDED AS AN AID TO THE REISSUE EXAMINATION PROCESS. IT SHOULD BE USED THROUGHOUT PROSECUTION AND MUST BE REMOVED FROM THE FILE AT THE TIME OF ALLOWANCE AFTER APPROVAL BY THE SPRE.

Reissue applications are considered "SPECIAL" (MPEP § 1442). Any reissue application appearing on an examiner's docket report should be taken up for action as the next new or amended case, even before other special applications.

Prior to examining a reissue application, the examiner should obtain and review the original patent file (MPEP § 1440). Examination of the reissue application is frequently directly linked to the prosecution history of the original application.

ALL CLAIMS ARE SUBJECT TO A FULL EXAMINATION ON THE MERITS, INCLUDING THE ORIGINAL CLAIMS OF THE PATENT, WHICH ARE BEING SURRENDERED IN THIS REISSUE APPLICATION.

Examiner: Complete items 1-20 prior to completing a first action. Then, take the reissue application (and patented file, if available) to the SPRE for review, before mailing the action.

(SPRE. initials) SPRE has reviewed before first action.

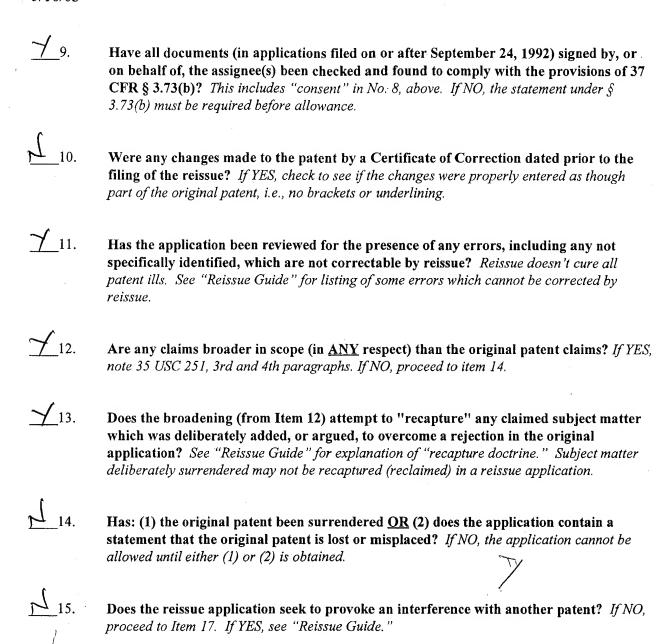
Complete items 21-22 when preparing the reissue application for allowance. SPRE must initial the file wrapper at the time of review for allowance.

A "Reissue Guide" containing a further explanation of each of the items on the checklist is available in paper form or electronically (by e-mail) from the Technology Center SPRE or Paralegal.

Indicate that each of the applicable items set forth below has been thoroughly reviewed with respect to the above-identified reissue application by answering YES, NO, or N/A to the following questions. The examiner should be able to answer "YES" to most of the questions. A "NO" answer may require some immediate action at that point or reference to the "Reissue Guide" for further explanation. See TC SPRE for further assistance, if needed.

- Has the original patent file wrapper been obtained and reviewed? If NO, see "Reissue Guide" for further assistance.
- Is the (original) patent still in force, i.e., has not expired due to the conclusion of its term or due to the non-payment of the scheduled maintenance fees? A reissue application must actually issue as a reissue patent before expiration of the original patent. Accordingly, always make sure the patent will not expire during prosecution of the reissue application. See "Reissue Guide" for methods of checking patent term.
- Has notice of the filing of the reissue application been published in the Official Gazette (O.G.)? If NO, STOP action and have your TC Paralegal forward the application to OIPE to effect publication. Reissue CPAs will not be announced in the O.G.
- 4. Is the current date more than two months after the O.G. publication date? If NO, wait until the two-month period has expired before preparing and issuing an Office action.. Continuation/divisional reissues may be acted upon before the expiration of the two-month period.
- Has the file been reviewed for the presence of any protests under 37 CFR 1.291(a)?

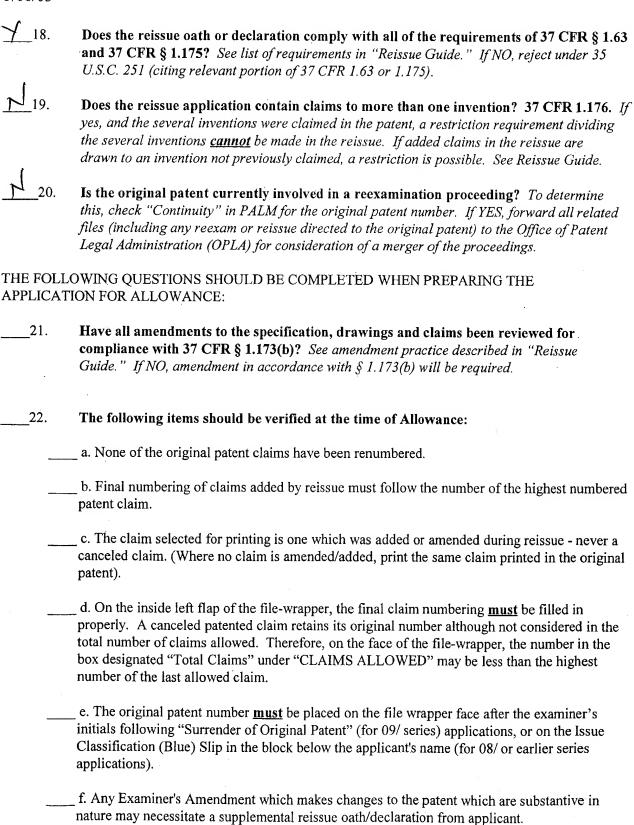
 Protests may be filed during the two-month period following the O.G. notice, or anytime up until the Notice of Allowance, and should be considered in the next Office action, if in the file. See "Reissue Guide" for instructions on handling protests.
- Is the reissue application a division or a continuation of another pending reissue application, or is there a child reissue application that is a division or continuation of this application? See <u>In re Graff</u>, 42 USPQ2d 1471. If YES, special handling as per "Reissue Guide" is required. See Item 19 below for restriction practice.
- Is the patent or the reissue application involved in litigation? Information may be found in file or requested from STIC. If YES, shortened reply periods may have to be set by the Examiner, or prosecution may have to be suspended. See "Reissue Guide." If NO, proceed with examination.
- 8. If the reissue application has been assigned, does it include the written consent to the filing by all of the assignees (37 CFR 1.172(a))? See MPEP § 1410.01. If NO, and a petition for a waiver of this requirement has been granted, the assent may be deferred until the case is otherwise allowable.



Does the application include drawings (copies or originals) which meet the requirements of 37 CFR 1.84? If YES, be sure there are no amendments or additions to the original figures. Transfer of the drawings from the patent file will no longer be made by the Office.

losing party of an interference. See "Reissue Guide."

Do the issues of interference estoppel and the "lost count" doctrine apply? Applies to



g. Classification and cross referencing on the file wrapper face (for 09/ series applications) or on the Issue Classification (Blue) Slip (for 08/ or earlier series applications) should include at least those classes and subclasses designated on the original patent. If a reclassification prevents use of the same class/subclasses, the new class/subclasses should be used. Call Patent Index (305-5227) to ascertain the new class/subclasses.
h. Terminal Disclaimer (TD) information has been placed on the file wrapper face for TDs filed either in the original patent or in the reissue application.
i. The references cited in the original patent have been cited in the reissue application on a Form PTO-892 or PTO-1449.
j. For any error corrected, which is not covered by an oath or declaration, i.e., any error corrected after the filing of all declarations currently in the reissue application, applicant MUST submit a supplemental oath or declaration prior to allowance stating "[T]hat every such error arose without any deceptive intention on the part of the applicant" (37 CFR 1.175(b)(1)), or language equivalent thereto. See MPEP 1444 for handling supplemental oaths/declarations.
Each allowed reissue application, together with the original patented file, is submitted to the TC SPRE for review prior to being released from the Technology Center. The box provided for "FINAL SPRE REVIEW" on the face of the gold and white reissue file wrappers is to be initialed by the TC SPRE. Once the reissue has been approved and revised for issue, the files should be sent to the Office of Patent Legal Administration.
This checklist is to be removed from the file by the SPRE at the time of final review.
All reissue applications are screened by the Office of Patent Legal Administration (OPLA) and may be reviewed by the Office of Patent Quality Review (OPQR) after allowance.
Examiner: Date:
EXR_CHK9.WPD